

# NHS Improvement's People, Remuneration & Nominations Committee Terms of Reference

Approved by the Board on 17 September 2021

## 1. Purpose

- 1.1 The NHS Improvement People, Remuneration and Nomination Committee (the Committee) is a committee of both Monitor and the NHS Trust Development Authority, together known as NHS Improvement. It has been established by the Board of NHS Improvement to meet in common with NHS England's People, Remuneration and Nomination Committee (NHS England's Committee) to support the exercise of the respective duties and powers of the Boards of both organisations in their joint responsibilities. These include:

### **People aspects:**

- 1.2 setting an overall people strategy and oversee the delivery of the NHS People Plan;
- 1.3 providing the Board with assurance and oversight of all aspects of strategic people management and organisational development;
- 1.4 exercising the appointment functions that have been delegated by the Secretary of State for Health and Social Care to NHS TDA;

### **Remuneration aspects:**

- 1.5 ensuring that the two organisations have a single formal and transparent remuneration policy;
- 1.6 ensuring that the two organisations have remuneration policies and practices to enable the recruitment, motivation and retention of staff;
- 1.7 approving the total individual remuneration package for the senior executives and certain senior employees of NHS Improvement; and
- 1.8 govern specific matters relating to remuneration and termination of office of board members in NHS trusts;

### **Nomination aspects:**

- 1.9 assist the Board in ensuring that it maintain an appropriate structure, size, and balance of skills to support the strategic objectives of the organisation.

## 2. Composition

### **Membership**

- 2.1 Members of the Committee are appointed by the Board and will be made up of at least three Non-Executive Directors of NHS Improvement, one of which can be the NHS Improvement Chair.

### **Committee Chair**

- 2.2 The Committee will be chaired by one of the Non-Executive Directors. In the absence of the nominated Chair, the other Non-Executive Director, but not the Chair of NHS Improvement, will chair the meeting.

## **Secretary**

- 2.3 The Head of Board Governance or their nominee will act as the secretary to the Committee.

## **3. Meeting arrangements**

### **Attendance**

- 3.1 Members of the Committee are expected to attend meetings wherever possible.
- 3.2 The Chief People Officer and the Director of Human Resources and Organisational Development will attend to advise the Committee but will not attend for discussions about their own remuneration and terms of service. At the invitation of the Committee Chair, others may also attend Committee meetings.
- 3.3 The Committee Chair may ask any person in attendance who is not a member of the Committee to withdraw from a meeting to facilitate open and frank discussion of a particular matter.

### **Meetings**

- 3.4 The Committee will meet in common with NHS England's People, Remuneration and Nominations Committee (including by telephone or video conferencing) at least four times a year or as determined by the Committee Chair. Any member of the Committee can ask for a meeting to be convened in person, by video-conference or by telephone, or for a matter to be considered in correspondence.
- 3.5 The quorum for meetings is two members. A duly convened meeting of the Committee at which a quorum is present shall be competent to exercise all or any of the authorities, powers and discretions vested in or exercisable by the Committee.
- 3.6 Unless otherwise agreed, notice of each meeting confirming the venue, time and date together with an agenda and supporting papers shall be circulated to each member of the Committee, any other person required to attend and all other non-executive directors, no later than five working days before the date of the meeting.
- 3.7 The secretary will minute the proceedings and decisions of all meetings of the Committee, including recording the names of those present and in attendance.
- 3.8 Draft minutes will be sent to the Committee Chair within four business days of the meeting and submitted for formal approval at the next meeting.
- 3.9 Except as outlined above, meetings for the Committee shall be conducted in accordance with the relevant provisions of NHS Improvement's Rules of Procedure.

## 4. Declarations of Interest

- 4.1 All members and attendees of the Committee must declare any relevant personal, non-personal, pecuniary or potential interests at the commencement of any meeting. The Chair of the Committee will determine if there is a conflict of interest such that the member and/or attendee will be required not to participate in a discussion.
- 4.2 Any member at any time is entitled to ask the Chair whether an item of business should be discussed outside of a meeting in common, as it conflicts with a power or duty of an individual organisation.
- 4.3 The Head of Governance can provide advice on reporting Declarations of Interests.

## 5. People related duties

- 5.1 The Committee will, together with NHS England's Committee:
  - 5.1.1 approve the final version of the NHS People Plan prior to its publication;
  - 5.1.2 oversee the implementation plan and delivery of the commitments outlined within the NHS People Plan which include:
    - 5.1.2.1 making the NHS the best place to work, to expand and develop the NHS workforce, make effective use of people's skills and experience, improving the training and development offer for NHS staff and improve staff retention;
    - 5.1.2.2 creating a compassionate and inclusive culture, working with NHS leaders and staff to deliver better patient outcomes whilst tackling the discrimination some staff face and reducing inequalities;
    - 5.1.2.3 ensuring a sustainable workforce is in place to support the NHS; and
    - 5.1.2.4 looking after and investing in the physical and mental health and wellbeing of the NHS workforce;
  - 5.1.3 working collaboratively with Health Education England (HEE) to review the HEE mandate, including current and past performance and making recommendations on the future year's mandate for approval by the NHS Improvement Board, and recommend changes to enhance HEE's offering to systems and providers.

### **Appointments to trusts**

- 5.2 The Committee operates with the authority of NHS TDA to determine any appointment matters within its terms of reference relating to chairs and non-executive directors of NHS trusts, special trustees for NHS trusts and NHS foundations trusts and non-executive directors of companies appointed as trustees, including:
  - 5.2.1 NHS TDA's appointment functions; and

- 5.2.2 Any other of NHS TDA's functions relating to appointments including determining tenure of office, termination of tenure of office, suspension, appointment of vice-chair and cessation of disqualification.
- 5.3 The functions in paragraph 5.2 are delegated to:
- 5.3.1 the Trust Appointments and Approvals Committee in respect of chair and trustee appointment matters; and
- 5.3.2 to the Regional Trust Appointments and Approvals Committee in respect of non-executive director appointment matters.
- 5.4 The Committee will, in relation to the functions in 5.2:
- 5.4.1 approve methods to be used for making appointments;
- 5.4.2 approve guidance on appointments;
- 5.4.3 approve descriptions of the duties and roles and criteria for appointments;
- 5.4.4 approve policies and procedures for appraisals;
- 5.4.5 review strategies and approve policies on diversity;
- 5.4.6 review strategies on developing talent and on the development of chairs and non-executive directors; and
- 5.5 The Committee will take proper account of any directions from the Department of Health and Social Care, the Governance Code on Public Appointments and any advice from the Commissioner for Public Appointments. The Committee may seek independent information as necessary to inform its decisions.

#### **Remuneration for executives in trusts**

- 5.6 The Committee operates to carry out TDA's and Monitor's functions in relation to oversight of executive pay in the NHS. This includes:
- 5.6.1 approving, or providing an opinion on all very senior manager salaries at or above £150,000 in NHS Trusts and NHS Foundations Trusts;
- 5.6.2 approving very senior manager salaries in ambulance and community NHS trusts, where required;
- 5.6.3 approving, or providing an opinion on 'retire and return' submissions;
- 5.6.4 reviewing and approving any major changes to policy in relation to these functions.
- 5.7 The Committee will take proper account of national agreements, e.g. Agenda for Change, and guidance issued by the Government, the Department of Health and Social Care in reaching its determinations. The Committee may seek independent information as necessary to inform its recommendations.
- 5.8 The Committee has delegated the functions in 5.6.1 – 5.6.3 to the Regional Trust Appointments and Approvals Committees.

#### **Arrangements for payments on termination of office for trust staff and executive directors**

- 5.9 The Committee carries out the functions of TDA and Monitor in relation to payments on termination, for the purpose of ensuring oversight of the economy of the NHS and the protection of its reputation. Those functions include:
- 5.9.1 In relation to NHS Trusts, approval of:

- 5.9.1.1 voluntary redundancy schemes, mutually agreed resignation (MAR) schemes;
  - 5.9.1.2 cases for contractual severance payments, MAR scheme payments for staff other than very senior managers in excess of £100,000;
  - 5.9.1.3 contractual termination payments for executive directors; and
  - 5.9.1.4 non-contractual termination payments for all staff.
- 5.9.2 In relation to NHS foundation trusts, providing an opinion on all non-contractual termination payments.
- 5.9.3 Reviewing and approving any major changes to policy in relation to these functions.
- 5.10 The Committee has delegated the duties in paragraphs 5.9.1 and 5.9.2 to the Trust Appointment and Approvals Committees.

## 6. Remuneration related duties

The Committee will, working together with NHS England's Committee:

### **Executive remuneration policy**

- 6.1 Determine and agree with the Board the framework and policy for the remuneration of NHS Improvement's Chief Executive, Executive and Regional Directors, for approval by the Secretary of State for Health and Social Care.
- 6.2 In determining such policy, take into account all factors which it deems necessary including relevant legal and regulatory requirements, Treasury guidance and other best practice as appropriate. The objective of such policy shall be to ensure that NHS Improvement's Chief Executive, Executive and Regional Directors are provided with appropriate incentives to encourage enhanced performance and are, in a fair and responsible manner, rewarded for their individual contributions to the success of the organisation.

### **Executive remuneration and other reward related matters**

- 6.3 Within the terms of the agreed remuneration policy and in consultation with the Chief Executive, as appropriate, approve for submission to the Secretary of State of Health and Social Care the total individual remuneration package of:
- 6.3.1 NHS Improvement's Chief Executive;
  - 6.3.2 joint Executive Directors;
  - 6.3.3 all senior members of staff reporting to the Chief Operating Officer;
  - 6.3.4 other senior employees of NHS Improvement who are on the Department of Health and Social Care's Pay Framework for Very Senior Managers (VSM (referred to internally as Executive Senior Managers (ESMs) internally) in Arm's Length Bodies and whose proposed salary will be in excess of £150,000; and
  - 6.3.5 employees of NHS Improvement who are on the Department of Health and Social Care's Pay Framework for ESMs in Arm's Length Bodies including bonuses, incentive payments and other benefits, earning salaries below £150,000.

- 6.4 In reviewing such arrangements give due regard to trends in decisions, any relevant legal requirements and Treasury guidance.
- 6.5 Review and note annually the remuneration trends across NHS Improvement. In doing so, obtain reliable, up-to-date information about remuneration in other organisations similar to NHS Improvement. The Committee shall have full authority to commission any reports or surveys which it deems necessary to help fulfil its obligations.
- 6.6 In relation to senior level appointments, keep succession planning and senior capability under continuous review.
- 6.7 Approve the performance management framework for Executive Directors, Regional Directors, ESMs and the wider workforce.
- 6.8 The Committee has delegated the duty in paragraph 6.3.5 and 6.5 to the Executive HR Group.

### **Executive termination payments**

- 6.9 Approve any policies on relating to early termination payments.
- 6.10 Approve termination payments (including contractual payments such as redundancy or early retirement provisions as well as other payments) for NHS Improvement staff. In doing so the Committee will ensure that any payments are fair, failure is not rewarded and the duty to mitigate loss is fully considered. Payments exceeding £100,00 will require subsequent Board approval and may also be subject to Treasury approval. Decisions requiring dismissal of the Chief Operating Officer/Chief Executive of NHS Improvement shall be referred to the Secretary of State for Health and Social Care.

### **Employee policies and related remuneration**

- 6.11 Approve people and organisational development policies and ways of working designed to ensure the workforce of NHS Improvement is appropriately engaged and motivated.
- 6.12 Determine and agree with the Board the design of, and the targets for, any performance related pay schemes operated by NHS Improvement, as well as the total annual payments made under such schemes.
- 6.13 Approve initiatives to address specific recruitment and/or retention issues.
- 6.14 Approve applications for recognition of continuity of service for staff moving to NHS Improvement from a non-NHS body.
- 6.15 Approve transfers of employees or any TUPE transfers to NHS Improvement.
- 6.16 The Committee has delegated the duty under paragraph 6.14 and any transfer of small number of employees covered under paragraph 6.15 to the Executive HR Group.
- 6.17 To the extent that matters of staff remuneration and associated conditions of service, benefits and compensation commitments (including pension rights) concern an employee or employees with Monitor contracts of employment, so far as practicable, any decisions impacting such employees shall be made by

members of the Committee acting in their capacity as directors and/or officers of Monitor.

## **Employee engagement**

- 6.18 Review NHS Improvement's gender pay gap and ensure that the organisation is seeking to reduce this over time by developing appropriate policies and actions.
- 6.19 Review NHS Improvement's progress with the Workforce Race Equality Standard strategy and seek to increase BAME representation with the aspirational target of 19% BAME representation at all levels within the organisation.
- 6.20 Review initiatives relating to diversity and inclusion and review and approve NHS Improvement's diversity policy.

## **7. Nominations related duties**

- 7.1 Form plans for succession of Executive and Non-Executive Directors, in particular for the roles of Chair and Chief Executive.
- 7.2 Before any appointments or re-appointments are made to the Board and to support the strategic direction of the organisation, evaluate the balance of required skills, knowledge, experience and diversity on the Board and agree upon a description of the role and capabilities required for a particular appointment/re-appointment.
- 7.3 Approve, in liaison with the Chair, appointments or re-appointments to the Board, including:
  - 7.3.1 keeping the Board informed of any appointments being made to the Board;
  - 7.3.2 liaising with the Department of Health and Social Care (on behalf of the Secretary of State for Health and Social Care) (DHSC) on the recruitment or re-appointment of Non-Executive Directors;
  - 7.3.3 liaising with DHSC on the recruitment of Executive Directors;
  - 7.3.4 identifying suitable candidate for the roles of the deputy chair and senior independent director;
  - 7.3.5 providing input to the Chief Executive's decisions to appoint their direct reports; and
  - 7.3.6 considering any matters relating to the continuation in office of any director at any time, including the suspension or termination of service of an Executive Director as an employee of Monitor or NHS TDA, subject to legal and contractual considerations.
- 7.4 Ensure that on appointment to the Board, Non-Executive Directors receive a formal letter of appointment clearly outlining the terms and expectations of the appointment.
- 7.5 Review the results of the Board performance evaluation process that relate to the composition of the Board.



## 8. Other duties

- 8.1 The Committee will discuss any matter which any member of the Committee believes to be of such importance that it should be brought to the attention of the Committee.
- 8.2 Where the Committee considers an item of its business may give rise to a potential conflict by meeting in common, the Committee may refer that business to the Board.

## 9. Reporting responsibilities

- 9.1 The Committee's Chair will report formally to the Board, in private session, on its proceedings after each meeting.
- 9.2 The Committee will make whatever recommendations to the Board it deems appropriate in any area within its remit where action or improvement is required.

## 10. Other matters

The Committee will:

- 10.1 have access to sufficient resources to carry out its duties, including access to the Head of Governance for assistance as required;
- 10.2 consider any other matters where requested to do so by the Board; and
- 10.3 review on an annual basis its own and its sub-committees performance and terms of reference to ensure that it is operating effectively as part of the Board's effectiveness review.

## 11. Authority

The Committee is authorised:

- 11.1 to seek any information it requires, or request attendance at a meeting, from any employee of NHS Improvement or NHS England in order to perform its duties;
- 11.2 to obtain, at NHS Improvement's expense, outside legal or other professional advice on any matter within its terms of reference (subject to budgets agreed by the Board). For legal advice, Director of Governance and Legal or one of the Deputy Directors of Legal shall be consulted prior to procurement of external advice; and
- 11.3 to appoint, with the agreement of the Board, sub-committees with such membership and terms of reference as the Committee may determine and delegate any of its responsibilities to such a sub-committee.